



भारत का राजपत्र

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
 as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 5th April, 1974:—

BILL No. 2 OF 1974

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Representation of the People (Amendment) Act, 1974.

Short
title.

43 of 1951.

2. After section 101 of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Insertion of
new
section
101A.

“101A. Where in an election petition, the petitioner has in addition to claiming a declaration that the election of all or any of the returned candidates is void, claimed a further declaration that he himself or any other candidate has been duly elected and where in such an election petition, the High Court has ordered recount of all the votes, and as a result of such recount, the returned candidate has received the largest number of the valid votes, the High Court shall declare the returned candidate to have been duly elected, notwithstanding that he did not file a re-election petition under section 97 or had not given the security referred to in that section.”

Candidate
securing the
largest
number of valid
votes to be
declared
elected

STATEMENT OF OBJECTS AND REASONS

In *Malaichami v. Andi Ambalam* (Civil Appeal No. 649 of 1972), the election petitioner claimed for a declaration that the election of the returned candidate to the Melur (North) Assembly Constituency in Madurai District in the State of Tamil Nadu was void and also claimed a further declaration that he himself had been duly elected. In the above case, Thiru Malaichami was declared to be elected by the Returning Officer and the election petitioner Thiru Andi Ambalam was one of the defeated candidates. The High Court had ordered recount of the votes polled and found that Thiru Malaichami, the returned candidate, obtained a majority of 75 valid votes. But the High Court held that he was not entitled to win by the majority of the 75 votes as he did not file a re-election petition under section 97 of the Representation of the People Act, 1951 (Central Act 43 of 1951). The High Court did not take into account the votes improperly received on behalf of the election petitioner. This decision of the High Court was affirmed by the Supreme Court.

This decision leads to the anomalous result in that even where the Court has found that the returned candidate has secured more number of valid votes than the election petitioner, the returned candidate could not be declared as duly elected by the Court but only the election petitioner who had obtained less number of valid votes was declared elected. Such a position is against all democratic principles. The decision of the High Court and the Supreme Court being based only on the provisions of the Representation of the People Act, 1951, it is necessary to amend the Act suitably so as to avoid the anomalous position mentioned above.

The Bill seeks to achieve the above object.

NEW DELHI;
The 16th November, 1973.

MURASOLI MARAN.

BILL No. 9 OF 1974

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1974. Short
title
2. In the Eighth Schedule to the Constitution, after entry 7, the entry "7A. Manipur." shall be inserted. Amend-
ment of
Eighth
Schedule.

STATEMENT OF OBJECTS AND REASONS

Manipuri is a well developed modern language having a rich ancient heritage and it has played a great role in the building up of the Manipuri cultural traditions for several centuries, Manipuri is the link language of the several hill tribes in Manipur, spoken by about two million people and used as the medium of instructions and examinations in the schools of Manipur. All deliberations, in the State Assembly and local courts, Petitions and important documents, are done in Manipuri in the State of Manipur. Manipuri was the language of the court and offices upto the time of the integration of the State with the Indian Union in October, 1949. The Sahitya Academy has recognised it as one of the modern literatures of the country. The Jawaharlal Nehru University and the Gauhati University have recognised it for post-graduate studies. The inclusion of this language in the Eighth Schedule to the Constitution will meet the genuine requirements of the State of Manipur and the Manipuris in the country.

NEW DELHI;

N. TOMBI SINGH.

The 14th January, 1974.

BILL NO. 24 OF 1974

A Bill to provide for the constitution of a Parliamentary Integrity Commission and matters incidental thereto.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Parliamentary Integrity Commission Act, 1974.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Commission" means the Parliamentary Integrity Commission constituted under section 3;

(b) "member" means a member of either House of Parliament, including a Minister;

(c) "section" means a section of this Act.

Constitu-
tion of
Parlia-
mentary
Integrity
Commis-
sion.

3. There shall be constituted with effect from the appointed date a Parliamentary Integrity Commission consisting of the following persons:—

(a) a Judge of the Supreme Court nominated by the Chief Justice of India, who shall be the ex-officio Chairman of the Commission;

(b) the Comptroller and Auditor General of India;

(c) a Chartered Accountant with not less than fifteen years' experience as Chartered Accountant to be nominated by the Central Government;

(d) four members of Lok Sabha to be nominated by the Speaker of Lok Sabha

(e) two members of Rajya Sabha to be nominated by the Chairman of Rajya Sabha.

Functions
of the
Com-
mission.

4. The functions of the Commission shall be to examine every declaration of income, assets and liabilities required to be made to it under this Act and to report to each House of Parliament such matters arising therefrom as it may deem fit.

Declara-
tions of
income,
assets and
liabilities
to be made
to Com-
mission.

5. (1) Each member of Parliament shall, within three months of his election or nomination to either House of Parliament, as the case may be, and thereafter by 31st March of each year, make a declaration in writing before the Commission showing his income, assets and liabilities.

(2) The declaration, to be made under sub-section (1), shall also include a statement of the income, assets and liabilities of the declarant's spouse and children living with, or dependent on, the declarant.

(3) If the Commission is not satisfied as to the accuracy or completeness of matters disclosed in such a declaration or if the income or gains have come from sources which, having regard to all the circumstances of the case, require further details or explanation, the Commission may call for such details or explanation from the declarant.

Forfeiture
of prop-
erty
omitted
from
declara-
tion.

6. If any property belonging to the declarant is subsequently discovered to have been omitted from the declaration or to have been dealt with in a misleading manner therein, such property shall stand forfeited to the Central Government unless the declarant establishes to the satisfaction of the Commission that such property was acquired by him as part of a bona fide business transaction or that the omission or misleading manner in which it was dealt with in the declaration was due to bona fide inadvertence or an honest mistake.

Vacation
of seats
of Mem-
bers.

7. Either House may, on a motion adopted by it in this behalf, declare the seat of any of its members vacant who may have been adversely commented upon by the Commission in its Report to Parliament.

Commis-
sion to
have
power of
court.
Power to
make
rules.

8. The Commission shall have all the powers of a Civil Court to send for persons, papers and records.

9. (1) The Commission may make rules for the procedure and conduct of its business.

(2) A copy of the rules so made by the Commission shall, as soon as may be, laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Very often wild rumours are spread that persons holding high elective offices have acquired wealth which is out of proportion to their apparent means before assuming public office. Not only that such rumours are damaging and embarrassing to the concerned person but also bring a bad name to the society as a whole.

While it is desirable to avoid subjecting members of Parliament to possible embarrassment by the public disclosure of their private affairs relating to their income, assets and liabilities, it is apparent that members of Parliament, in general, are in a special position and should be above suspicion like the Caesar's wife.

The Bill, therefore, proposes the constitution of a Parliamentary Integrity Commission to which all members of Parliament may make declarations of their income, assets and liabilities. This will set at rest all baseless and wild rumours in respect of members of Parliament which are quite often set afloat maliciously by interested persons. This will also enable the exposure of black sheep, if any, among a particular class of persons holding elective offices.

The proposed Parliamentary Integrity Commission will be presided over by a Judge of the Supreme Court and the Comptroller and Auditor General shall be a member thereof to inspire confidence in the public mind in the findings and recommendations of the Commission. The Bill also empowers the Commission to send for persons, papers and records like a Civil Court and to frame its own rules of procedure and conduct of business.

NEW DELHI;
The 23rd February, 1974.

B. K. DESCHOWDHURY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Commission with, among others, a Chartered Accountant and members of Lok Sabha and Rajya Sabha as its members. Some staff will be required for the Commission. Some remuneration to the Chartered Accountant and some allowances to other members and staff will require to be paid. A recurring expenditure of about rupees one lakh is, therefore, likely to be involved from the Consolidated Fund of India in case the Bill is enacted.

A non-recurring expenditure of about rupees twenty thousand only is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill confers on the Parliamentary Integrity Commission the power to make rules for the procedure and conduct of its business. As the rules will relate to matters of procedure only, the delegation of power is of a normal character,

BILL NO. 29 OF 1974

A Bill to amend the Beedi and Cigar Worker (Conditions of Employment) Act, 1966.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Amendment Act, 1974.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 1

2. In section 1 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (hereinafter referred to as the principal Act), for sub-section (3), the following sub-section shall be substituted, namely:—

32 of 1966.

“(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.”

3. In section 2 of the principal Act,—

Amend-
ment of
section 2

(a) in clause (c), for the words "State Government", the words "Central Government" shall be substituted;

(b) clauses (d) and (e) shall be omitted;

(c) clause (f) shall be renumbered as clause (d) and in clause (d) as renumbered,—

(i) the words "and includes" shall be deleted; and

(ii) sub-clauses (i) and (ii) shall be deleted;

(d) clauses (g), (h), (i), (j) and (k) shall be renumbered as clauses (e), (f), (g), (h) and (i) respectively;

(e) in clause (e) as renumbered, sub-clause (a) and letter "(b)" and the words "in relation to other labour," shall be deleted;

(f) clause (l) shall be renumbered as clause (j) and in clause (j) as renumbered, for the words "State Government", the words "Central Government" shall be substituted;

(g) clauses (m) and (n) shall be omitted;

(h) clauses (o), (p) and (q) shall be renumbered as clauses (k), (l) and (m) respectively.

4. In section 3 of the principal Act, for the words "Save as otherwise provided in this Act, no", the word "No" shall be substituted.

Amend-
ment of
section 3,
Amend-
ment of
section 4.

5. In section 4 of the principal Act,—

(a) in sub-section (7), for the words "State Government", the words "Central Government" shall be substituted;

(b) after sub-section (8), the following new sub-section shall be inserted, namely:—

"(9) No licence under this Act shall be issued to any employer—

(a) who has not got a trade mark registered in respect of the goods manufactured by him; and

(b) who will not employ at least twenty persons in manufacturing processes in the industrial premises."

6. In section 5 of the principal Act, for the words "State Government", the words "Central Government" shall be substituted.

Amend-
ment of
section 5

7. In section 6 of the principal Act,

(a) in sub-section (1), for the words "State Government", the words "Central Government" shall be substituted;

Amend-
ment of
section 6.

(b) or sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Central Government may, by notification in the Official Gazette, appoint persons to be the Chief Inspectors for different States who shall exercise the powers of Inspectors throughout the respective States."

Amend-
ment of
section 7.

8. In section 7 of the principal Act, in sub-section (1), for the words "State Government", the words "Central Government" shall be substituted.

Insertion
of section
14A.

9. After section 14 of the principal Act, the following new section shall be inserted, namely:—

Provi-
sion of
special
rooms
for
female
emplo-
yees.

"14A. In every establishment wherein more than forty females are ordinarily employed, there shall be provided and maintained separate rooms for the female employees for conveniently and comfortably carrying out the manufacturing processes."

Amend-
ment of
section 27.

10. In section 27 of the principal Act, in sub-section (1), *Explanation* II shall be omitted.

Substitu-
tion of
section 28.

11. For section 28 of the principal Act, the following section shall be substituted, namely:—

Applica-
tion of
the pay-
ment of
Wages
Act, 1936
to indus-
trial pre-
mises.

"28. Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as the said Act), the Central Government may, by notification in the Official Gazette, direct that the said Act or the rules made thereunder shall apply to all classes of employees in establishments to which this Act applies, and on such application of the said Act, a Chief Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of the said Act within the State of his jurisdiction."

Omission
of section
29.

12. Section 29 of the principal Act shall be omitted.

Amend-
ment of
section 37.

13. In section 37 of the principal Act, the proviso to sub-section (3) shall be omitted.

Omission
of sec-
tions 41
and 42.

14. Sections 41 and 42 of the principal Act shall be omitted.

Substitu-
tion of
section 43.

15. For section 43 of the principal Act, the following section shall be substituted, namely:—

Dwelling
house not
to be used
for manu-
facturing
beedies,
etc.

"43. No one shall use or allow the use of any private dwelling house, place or premises, other than the industrial premises licensed under this Act for the purpose of manufacturing beedies or cigars or any work connected with or incidental to the manufacturing of beedies and cigars.

Explanation.—The wetting or cutting of beedi leaves or tobacco leaves by employees shall be deemed to be work connected with the manufacture of beedies or cigars.

16. In section 44 of the principal Act,—

(a) in sub-section (1), for the words "State Government", the words "Central Government" shall be substituted;

(b) clause (t) of sub-section (2) shall be omitted;

(c) clauses (u) to (x) of sub-section (2) shall be renumbered as clauses (t), (u), (v) and (w) respective;

(d) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Every rule made under this section shall be laid, as soon as, may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

STATEMENT OF OBJECTS AND REASONS

The implementation of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 has become a matter of confusion and conflicts from State to State. Such problems are threatening the industry particularly in regard to job security of workmen due to the transfer of factories by the factory owners from one State to another.

The aim and objective of the Bill is to formulate a national policy regarding the implementation of provisions in the principal Act.

It is felt that some facilities should be made available in factories employing more than forty women workers in the Beedi and Cigar industry. This amending Bill seeks to achieve that object also.

NEW DELHI;
The 1st March, 1974.

A. K. GOPALAN.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for appointment of Chief Inspectors by the Central Government for different States. The Bill, therefore, if enacted is likely to involve a recurring expenditure of about rupees two lakhs from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill confers rule making power on the Central Government. As these rules will pertain to matters of detail or procedure, the delegation of legislative power is of a normal character.

BILL No. 17 of 1974

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1974.

(2) It shall come into force at once.

2. In article 124 of the Constitution,—

(i) for clause (2), the following clause shall be substituted, namely:—

“(2) (a) Every Judge of the Supreme Court shall be appointed by the President from among the panel of three names prepared by a Commission of the three senior most Judges of the Supreme Court, including the Chief Justice, after obtaining the opinion of the Supreme Court Bar Association thereon; and

Short
title and
com-
mence-
ment.

Amend-
ment of
article
124.

(b) the Chief Justice of the Supreme Court shall be appointed by the President from among the panel of three names prepared by a Commission consisting of the retiring Chief Justice and two preceding Chief Justices of the Supreme Court after obtaining the opinion of the Supreme Court Bar Association thereon:

Provided that the appointments under sub-clauses (a) and (b) of this clause shall take effect only after securing the approval of the House of the People for these appointments:

Provided further that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4).”;

(ii) the existing clause (2A) shall be renumbered as clause (2B) and before clause (2B) as so renumbered, the following clause shall be inserted, namely:—

“(2A) Every Judge of the Supreme Court, including the Chief Justice, shall hold office until he attains the age of sixty-five years.”;

(iii) after clause (7), the following clause shall be inserted, namely:—

“(8) No person who has held office as a Judge of the Supreme Court shall after retirement accept any Commission under the State other than the one provided for in clause (2) of this article or private employment.”.

Amend-
ment of
article
125.

3. In article 125 of the Constitution,—

(i) In clause (2) the words “and pension” shall be omitted;

(ii) after clause (2), the following clause shall be inserted, namely:—

“(3) The Judges of the Supreme Court shall be entitled to a tax free pension equal to three-fourth of their salaries.”

Amend-
ment of
article
217.

4. In article 217 of the Constitution.—

(i) for clause (1), the following clause shall be substituted, namely:—

“(1) (a) Every Judge of a High Court shall be appointed by the President from among the panel of three names prepared by a Commission consisting of the Chief Justice of the Supreme Court and the Chief Justice and the senior-most Judge of the High Court concerned after obtaining the opinion of the High Court Bar Association thereon; and

(b) the Chief Justice of the High Court shall be appointed by the President from among the panel of three names prepared

by a Commission consisting of the Chief Justice of the Supreme Court, the retiring Chief Justice and the preceding Chief Justice of the High Court concerned after obtaining the opinion of the High Court Bar Association thereon :

Provided that the appointments under sub-clauses (a) and (b) of this clause shall take effect only after securing the approval of the House of the People for these appointments:

Provided further that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.”;

(ii) after clause (1), the following clause shall be inserted, namely:—

“(1A) Every Judge of a High Court shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty-five years.”;

(iii) after clause (3), the following clause shall be inserted namely:—

“(4) No person who has held office as a Judge of a High Court shall after retirement accept any Commission under the State other than the one provided for in clause (1) of this article or any private employment.”.

5. For article 220 of the Constitution, the following article shall be substituted, namely:—

“220. No person who has held office as a Judge of any High Court shall plead or act in any court or before any authority within the territory of India.”.

Substitution of article 220.

Restriction on practice after being a Judge.

6. In article 221 of the Constitution,—

(i) in clause (2), the words “and pension” shall be deleted;

(ii) after clause (2), the following clause shall be inserted, namely:—

“(3) The Judges of a High Court shall be entitled to a tax free pension equal to three-fourth of their salaries.”.

Amendment of article 221.

**Amend-
ment of
Second
Schedule.****7. In the Second Schedule to the Constitution, in Part D,—**

(a) in sub-paragraph (1) of paragraph 9, for the words and figures "salary at the following rates per mensem, that is to say:—

The Chief Justice	5,000 rupees.
Any other Judge	4,000 rupees."

the words and figures "tax free salary at the following rates per mensem, that is to say:—

The Chief Justice	3,500 rupees
Any other Judge	2,800 rupees."

shall be substituted;

(b) in sub-paragraph (1) of paragraph 10, for the words and figures "salary at the following rates per mensem, that is to say,—

The Chief Justice	4,000 rupees
Any other Judge	3,500 rupees."

the words and figures "tax free salary at the following rates per mensem, that is to say,—

The Chief Justice	2,800 rupees
Any other Judge	2,200 rupees."

shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Constitution (Amendment) Bill seeks to bring about the necessary reform of our Judiciary whose independence has been progressively undermined as a result of a series of Executive actions after the achievement of independence.

I am a strong advocate of a national incomes and expenditure policy under which all incomes will be within a range of minimum 1 to maximum 10. But before this is done something has to be done about the Judges' emoluments if competent people are to be persuaded to accept appointment to the Bench.

The system of appointing retired Judges to various Commissions by the Executive has had the effect of making the Judges subservient to the Government. This Bill seeks to prohibit their re-employment either by the Government or by the private sector. It also provides against retired High Court Judges practising in the Supreme Court and other High Courts. It, however, seeks to raise their age of retirement to the Supreme Court level, namely 65 years. At the same time, it seeks to give them additional security by raising their pensions to three-fourth of their salaries and making their salaries and pensions tax free.

The steady erosion of judicial independence culminated in the supersession of the three Supreme Court Judges the Executive did not like. This action has dealt a serious blow to our democratic institutions.

This Bill, therefore, lays down a new procedure which gives the Judiciary and the Bar the power to recommend persons for appointment to high judicial office, retains for the President (Executive) the actual power of appointment from among the recommended names and it also empowers the elected Lok Sabha to approve the appointments. Thus, all three branches of the Government will become involved in the important work of appointing Judges of the High Courts and the Supreme Court.

NEW DELHI;

MADHU LIMAYE.

The 10th January, 1974.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 21/79/73-Jus., dated the 2nd March, 1974, from Shri H. R. Gokhale, Minister of Law, Justice and Company Affairs, to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the above Bill recommends the introduction and consideration of the Bill in the Lok Sabha under articles 117 and 274 of the Constitution of India.

FINANCIAL MEMORANDUM

The salaries of Judges are charges on the Consolidated Fund of India, and since they are sought to be reduced notionally the actual payments will be less than those provided for at present.

Clauses 3 and 6 of the Bill, however, provide for pension at increased rate to the Supreme Court and High Court Judges respectively. Clause 4 of the Bill provides for raising the age of retirement of a High Court Judge from 62 to 65 years. It would result in increased pensions in certain cases. The Bill, therefore, if enacted is likely to involve an additional recurring expenditure of about rupees 5 lakhs from the Consolidated Fund of India.

The Bill is not likely to involve any non-recurring expenditure.

S. L. SHAKDHER,
Secretary-General.